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10
11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**

13
14 DEBRA GOLDSTEIN, individually
15 and on behalf of all others similarly
situated,

16 *Plaintiff,*

17
18 v.

19 WHIRLPOOL CORPORATION,

20 *Defendant.*
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23
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Case No. 2:23-cv-04752

CLASS ACTION COMPLAINT

Jury Trial Demanded

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I. Introduction.

1. About 40% of American households use natural gas stoves. Many households use the stove daily to cook in the home. Recent studies confirm however, that gas cooking has important risks. Gas stoves “emit air pollutants... at levels the EPA and World Health Organization have said are unsafe and linked to respiratory illness, cardiovascular problems, cancer, and other health conditions.”¹ For example, gas stoves emit nitrogen oxides, which are “gases [that] can worsen asthma and other lung diseases.”² This is true for all consumers, adults and children alike, but is especially risky for children. *Id.* Children living in households with gas stoves are “42% more likely to have asthma.”³

2. This risk is avoidable; manufacturers can reasonably design gas stoves to mitigate the risk of pollutants. Manufacturers also can—and should—disclose the risk of pollutants to consumers, who can then make an informed choice about whether to buy a gas stove or an electric stove (which does not carry the same risk).

3. Defendant Whirlpool Corporation makes, sells, and markets household appliances, including KitchenAid brand gas stoves. Plaintiff purchased a gas stove made by Defendant. Plaintiff believed that the product was free from defects, and she did not know that gas cooking has significant pollutant risks. Had she known of the risks of pollutants from the gas stove, she would not have purchased it.

4. Plaintiff brings this case for herself and for other consumers who purchased Defendant’s gas stoves, ovens, and range products.

II. Parties.

5. Plaintiff Debra Goldstein is domiciled in Woodland Hills, California.

¹ <https://www.bloomberg.com/news/articles/2023-01-09/us-safety-agency-to-consider-ban-on-gas-stoves-amid-health-fears>

² <https://www.consumerreports.org/appliances/indoor-air-quality/is-your-gas-range-a-health-risk-a6971504915/>

³ <https://www.health.harvard.edu/blog/have-a-gas-stove-how-to-reduce-pollution-that-may-harm-health-202209072811>

1 6. The proposed class and subclasses (identified below) includes citizens of all
2 states.

3 7. Defendant Whirlpool Corporation is a Delaware corporation with a
4 principal place of business in Benton Harbor, Michigan.

5 8. Defendant makes, distributes, sells, and markets gas stoves, ovens, and
6 range products (including under the brand names Whirlpool and KitchenAid), and has
7 done so throughout any applicable statute of limitations period.

8 **III. Jurisdiction and Venue.**

9 9. This Court has original jurisdiction pursuant to the Class Action Fairness
10 Act, 28 U.S.C. § 1332(d). The amount in controversy exceeds the sum or value of
11 \$5,000,000, exclusive of interest and costs, and the matter is a class action in which one
12 or more members of the proposed class are citizens of a state different from the
13 Defendant.

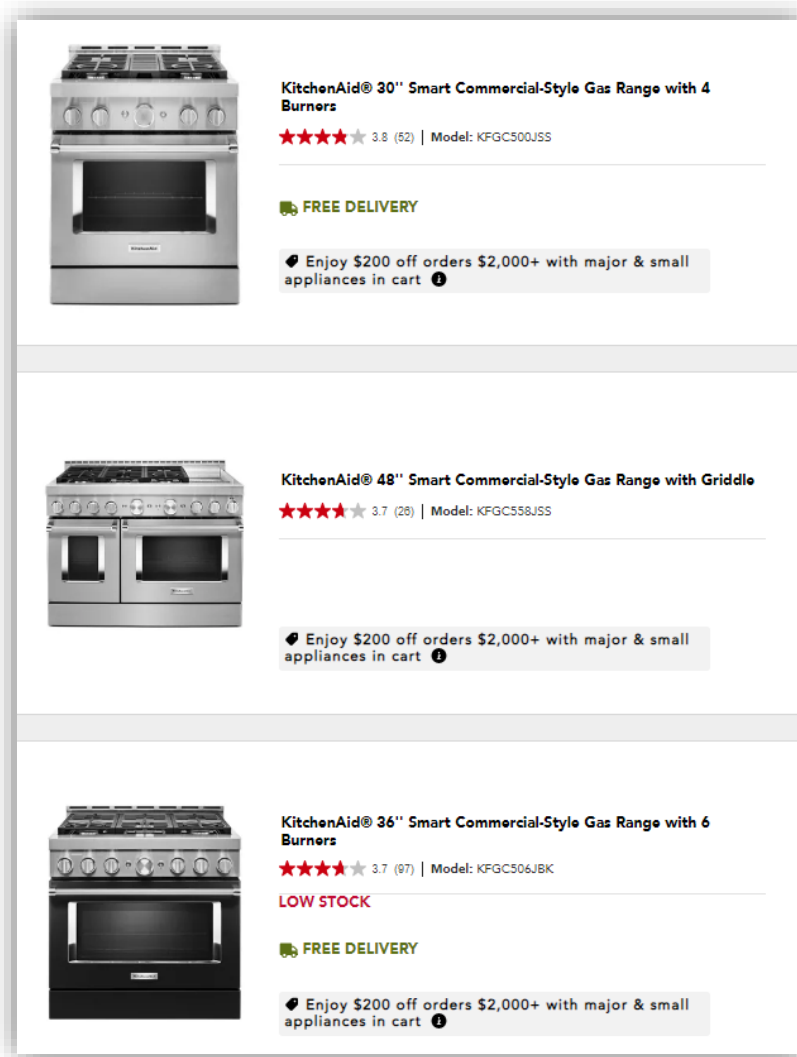
14 10. This Court has personal jurisdiction over Defendant. Defendant does
15 business in California. It advertises and sells its Products in California, and serves a
16 market for its Products in California. Due to Defendant's actions, its Products have
17 been marketed and sold to consumers in California, and harmed consumers in
18 California. Plaintiff's claims arise out of Defendant's contacts with this forum. Due to
19 Defendant's actions, Plaintiff purchased one of Defendant's Products in California, and
20 was harmed in California.

21 11. Venue is proper under 28 U.S.C. § 1391(b)(1) and 28 U.S.C. § 1391(d).
22 Defendant would be subject to personal jurisdiction in this District if this District were a
23 separate state. Defendant advertises and sells its Products to customers in this District,
24 serves a market for its Products in this District, and Plaintiff's claims arise out of
25 Defendant's contacts in this forum. Venue is also proper under 28 U.S.C. § 1391(b)(2)
26 because a substantial part of the events giving rise to the claim occurred here.

IV. Facts.


12. About 40% of American households use natural gas stoves.⁴ Many households use the stove daily to cook in the home.

13. Defendant makes, markets, and sells residential gas stoves, gas ranges, and gas ovens (“Defendant’s Products” or “Products”), including under brand names such as Whirlpool, Maytag, JennAir, Amana, and KitchenAid. Some examples of Defendant’s Products are shown below:⁵



⁴ https://www.washingtonpost.com/business/energy/biden-isnt-coming-for-your-gas-stove-states-are/2023/01/13/12353d1e-9353-11ed-90f8-53661ac5d9b9_story.html


⁵ <https://www.kitchenaid.com/major-appliances/ranges/see-all.html?plp=%3Arelevance%3Acategory%3AMajorAppliancesRanges&plpView=list>




5.0 cu. ft. Whirlpool® gas convection oven with Frozen Bake™ technology

★★★★☆ 4.1 (208) | Model: WFG550S0HV


Dimensions: 47-7/8" H × 29-7/8" W × 27-3/4" D


 **Free Delivery**



5.0 cu. ft. Front Control Gas Range with Cast-Iron Grates

★★★★☆ 4.2 (95) | Model: WEG515S0FV


 **Free Delivery**

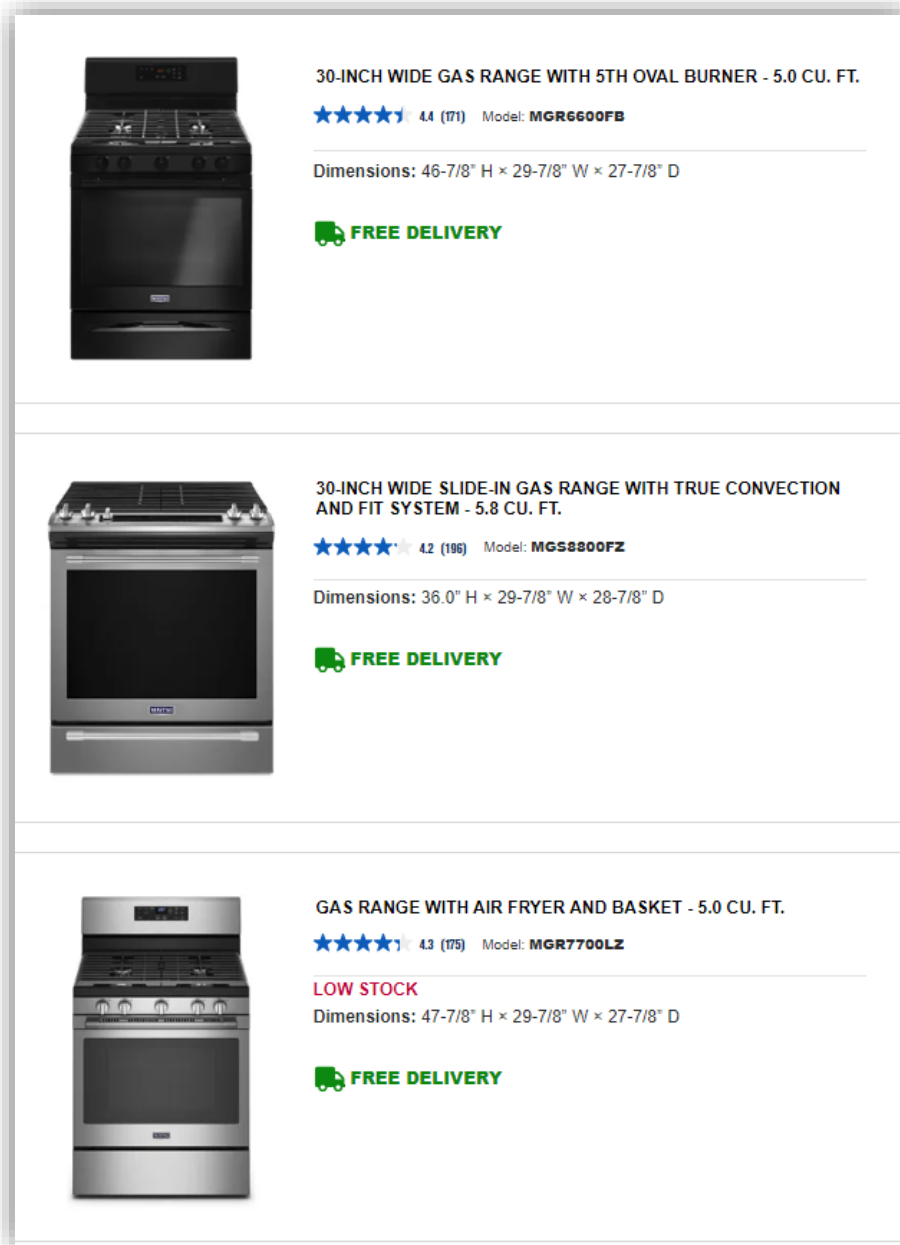


5.8 cu. ft. Freestanding Gas Range with Frozen Bake™ Technology

★★★★☆ 4.2 (90) | Model: WFG775H0HV

Dimensions: 46-1/2" H × 29-7/8" W × 27-7/8" D

 **Free Delivery**



23 14. Defendant sells its products specifically for home use, and markets to
24 consumers for home use. In fact, the only intended use for Defendant's Products is for
25 cooking inside the home.

26 **A. Gas stoves produce health-harming pollutants.**

27 15. Recent studies have confirmed that gas stoves harm the health of the
28

1 households that use it.⁶ Gas stoves “emit air pollutants such as nitrogen dioxide, carbon
 2 monoxide and fine particulate matter at levels the EPA and World Health Organization
 3 have said are unsafe and linked to respiratory illness, cardiovascular problems, cancer,
 4 and other health conditions.”⁷

5 16. In particular, nitrogen oxides (sometimes written as NO_x or NO₂),⁸ are
 6 hazardous to human health. “A recent study published by researchers at Stanford
 7 calculated that emission of nitrogen dioxide from certain gas burners or ovens rose
 8 above the standard set for outdoors by the Environmental Protection Agency (EPA)
 9 within a few minutes.”⁹

10 17. Further, “recent EPA research also linked long-term NO₂ exposure to
 11 cardiovascular effects, diabetes, poorer birth outcomes, premature mortality, and
 12 cancer.”¹⁰ It is also linked to “reduced cognitive performance, especially in children.” *Id.*
 13 “[E]arly-life exposure to air pollution from indoor gas appliances may be negatively
 14 associated with neuropsychological development through the first 4 years of life,
 15 particularly among genetically susceptible children.” *Id.* “The gases can worsen asthma
 16 and other lung diseases.”¹¹ “In short, research shows that even low levels of NO₂
 17 exposure are dangerous, especially to the vulnerable.”¹²

18 18. “Yet...homes with gas stoves have around 50 percent, ranging up to over
 19

20 ⁶ <https://www.consumerreports.org/appliances/indoor-air-quality/is-your-gas-range-a-health-risk-a6971504915/>

21 ⁷ <https://www.bloomberg.com/news/articles/2023-01-09/us-safety-agency-to-consider-ban-on-gas-stoves-amid-health-fears>

22 ⁸ The term NO_x is a common term for nitrogen oxides that include nitric oxide (NO) and
 23 nitrogen dioxide (NO₂). <https://www.encyclopedia.com/earth-and-environment/ecology-and-environmentalism/environmental-studies/nox-nitrogen-oxides>

24 ⁹ <https://www.health.harvard.edu/blog/have-a-gas-stove-how-to-reduce-pollution-that-may-harm-health-202209072811>

25 ¹⁰ <https://www.vox.com/energy-and-environment/2020/5/7/21247602/gas-stove-cooking-indoor-air-pollution-health-risks>

26 ¹¹ <https://www.consumerreports.org/appliances/indoor-air-quality/is-your-gas-range-a-health-risk-a6971504915/>

27 ¹² <https://www.vox.com/energy-and-environment/2020/5/7/21247602/gas-stove-cooking-indoor-air-pollution-health-risks>

400 percent, higher levels of NO₂ than homes with electric stoves.”¹³ Concentrations of NO₂ emissions from gas stoves can exceed US outdoor pollution standards several times over when conducting common cooking tasks like boiling water, baking a cake, roasting meat, and frying bacon with a gas stove. *Id.* Thus, children living in households with gas stoves are “42% more likely to have asthma.”¹⁴ A recent study “found that 12.7%...of current childhood asthma in the US is attributable to gas stove use.”¹⁵ This is a level that is “similar to the childhood asthma burden attributed to secondhand smoke exposure.”¹⁶ Data shows that, “the higher the nitrogen dioxide level, the more severe the asthma symptoms in children and adults.”¹⁷

19. This emission of harmful pollutants occurs because when gas stoves are turned on, natural gas combines with oxygen to create a controlled flame for cooking and produces gases like nitric oxide and nitrogen dioxide as byproducts of the combustion.¹⁸ All Defendant’s Products emit gases this way when they are used for cooking, because they all use natural gas to create heat for cooking.

20. In addition, cooking with gas stoves while windows are closed exacerbates the problem. A study found that while cooking with gas stoves increases NO₂ concentrations in the home, and that this NO₂ exposure is associated with increased nighttime inhaler use in children with asthma, cooking with gas stove “while windows are closed is associated with even higher 24-hour NO₂ concentrations.”¹⁹

¹³ <https://www.vox.com/energy-and-environment/2020/5/7/21247602/gas-stove-cooking-indoor-air-pollution-health-risks>

¹⁴ <https://www.health.harvard.edu/blog/have-a-gas-stove-how-to-reduce-pollution-that-may-harm-health-202209072811>

¹⁵ [IJERPH | Free Full-Text | Population Attributable Fraction of Gas Stoves and Childhood Asthma in the United States \(mdpi.com\)](#)

¹⁶ [IJERPH | Free Full-Text | Population Attributable Fraction of Gas Stoves and Childhood Asthma in the United States \(mdpi.com\)](#)

¹⁷ [Have a gas stove? How to reduce pollution that may harm health - Harvard Health](#)

¹⁸ <https://www.theguardian.com/environment/2023/jan/15/gas-stoves-pollution-alternatives>

¹⁹ Paulin, L. M., Williams, D. L., Peng, R., Diette, G. B., McCormack, M. C., Breyse, P., & Hansel, N. N. (2017). 24-h Nitrogen dioxide concentration is associated with cooking behaviors and an

21. Using gas stoves without a vent also increases NO₂ exposure. A study found that “gas can pose some risk of respiratory illness *particularly* where ventilation is inadequate and/or equipment is poorly made or maintained... Unvented gas appliances, including stoves and ovens, can give rise to substantial quantities of NO₂, ultrafine particles and CO.”²⁰ The World Health Organization Guidelines for Indoor Air Quality stated, “[t]he average nitrogen dioxide concentration over a period of several days may exceed 150 µg/m³ when unvented gas stoves are used.”²¹

22. Using gas stoves for longer periods also increases NO₂ exposure. A study found that “each hour of cooking appliance use was associated with an 18ppb increase in 24-hour NO₂ concentration, and in the cold season, each hour of cooking appliance use increased 24-hour NO₂ concentration by 25ppb.”²²

23. For these reasons, the American Medical Association recently adopted a resolution “recogniz[ing] the association between the use of gas stoves, indoor nitrogen dioxide levels and asthma,” and committed to informing “members and, to the extent possible, health care providers, the public, and relevant organizations that use of a gas stove increases household air pollution and the risk of childhood asthma and asthma

increase in rescue medication use in children with asthma. Environmental research, 159, 118–123. <https://doi.org/10.1016/j.envres.2017.07.052>

²⁰ Nigel Bruce and Kirk R Smith, WHO IAQ guidelines: household fuel combustion – Review 4: health effects of household air pollution (HAP), 2014, https://cdn.who.int/media/docs/default-source/air-pollution-documents/air-quality-and-health/who-iaq-guidelines-household-fuel-review_4.pdf (emphasis added); Koo LC, Ho JHC, Ho CY, Matsuki H, Shimizu H, Mori T, et al. Personal exposure to nitrogen dioxide and its association with respiratory illness in Hong-Kong. American Review of Respiratory Disease. 1990;141(5):1119-26; B. Seals & A. Krasner, Health Effects from Gas Stove Pollution, Rocky Mountain Institute et. al (2020) (RMI Report) (citing Integrated Science Assessment (ISA) For Oxides of Nitrogen – Health Criteria (Final Report, 2016).

²¹ <https://www.ncbi.nlm.nih.gov/books/NBK138707/> (citing Pilotto LS, Douglas RM, Attewell RG, Wilson SR. Respiratory effects associated with indoor nitrogen dioxide exposure in children. Int J Epidemiol. 1997 Aug;26(4):788-96. doi: 10.1093/ije/26.4.788. PMID: 9279611).

²² Paulin, L. M., Williams, D. L., Peng, R., Diette, G. B., McCormack, M. C., Breyse, P., & Hansel, N. N. (2017). 24-h Nitrogen dioxide concentration is associated with cooking behaviors and an increase in rescue medication use in children with asthma. Environmental research, 159, 118–123. <https://doi.org/10.1016/j.envres.2017.07.052>

1 severity.”²³

2 **B. Defendant knows of this pollutant risk.**

3 24. Defendant is aware that its Products emit health-harming pollutants.

4 25. Since the 1980s, the natural gas industry—of which Defendant is a
5 constituent—has worried that the US Consumer Product Safety Commission would
6 regulate gas stove emissions due to indoor air quality concerns.²⁴

7 26. This is because “[s]cientists have long known that gas stoves emit pollutants
8 that irritate human airways and can cause or exacerbate respiratory problems.”²⁵
9 “[S]tudies dating back decades have shown harmful effects from the NO₂ in gas cooking
10 stoves.”²⁶

11 27. In 1986, a report by the Clean Air Scientific Advisory Committee of the
12 U.S. Environmental Protection Agency stated, “Health effects data from epidemiological
13 studies in gas stove homes suggest that young children are at increased risk of respiratory
14 symptom; and infection from exposures to elevated concentrations of N₂O. Other
15 groups at risk to N₂O exposures are asthmatics and bronchitics.”²⁷ It further warned,
16 “Human epidemiologic studies suggest that exposure to nitrogen dioxide may lead to
17 increased respiratory illness rates among children.” *Id.* at 6.

18 28. Subsequent studies have confirmed the harmful effects of pollutants from
19 gas stoves. “In a 1992 meta-analysis of studies on this topic, scientists at the EPA and
20 Duke University found that nitrogen dioxide exposure that is comparable to that from a
21 gas stove increases the odds of children developing a respiratory illness by about 20
22

23 ²³ [https://policysearch.ama-](https://policysearch.ama-assn.org/policyfinder/detail/gas%20stove?uri=%2FAMADoc%2Fdirectives.xml-D-135.964.xml)
24 [assn.org/policyfinder/detail/gas%20stove?uri=%2FAMADoc%2Fdirectives.xml-D-135.964.xml](https://policysearch.ama-assn.org/policyfinder/detail/gas%20stove?uri=%2FAMADoc%2Fdirectives.xml-D-135.964.xml);
25 [https://publicinterestnetwork.org/updates/update-ama-moves-forward-resolution-gas-stove-](https://publicinterestnetwork.org/updates/update-ama-moves-forward-resolution-gas-stove-pollution/)
26 [pollution/](https://publicinterestnetwork.org/updates/update-ama-moves-forward-resolution-gas-stove-pollution/)

27 ²⁴ [https://www.npr.org/2023/02/04/1149736969/gas-stove-makers-have-a-pollution-solution-](https://www.npr.org/2023/02/04/1149736969/gas-stove-makers-have-a-pollution-solution-theyre-just-not-using-it)
28 [theyre-just-not-using-it](https://www.npr.org/2023/02/04/1149736969/gas-stove-makers-have-a-pollution-solution-theyre-just-not-using-it); <https://www.sciencenews.org/archive/cleaner-cooking-gas>

²⁵ <https://www.scientificamerican.com/article/the-health-risks-of-gas-stoves-explained/>

²⁶ <https://www.scientificamerican.com/article/the-health-risks-of-gas-stoves-explained/>

²⁷ Report of the Clean Air Scientific Advisory Committee, May 9, 1986, at 5.

1 percent.”²⁸ “A 2013 meta-analysis of 41 studies found that gas cooking increases the risk
 2 of asthma in children and that NO₂ exposure is linked with currently having a wheeze.”
 3 *Id.* And “[m]ost recently, a study published last December found that 12.7 percent of
 4 childhood asthma cases in the U.S. can be attributed to gas stove use.” *Id.*

5 29. Like other makers of gas stoves, Defendant monitors and keeps track of
 6 research on the health effects of its products. This is diligence that large companies like
 7 Defendant routinely do when selling a consumer product. Defendant is aware of the
 8 fact that its Products emit harmful pollutants. It is further aware that use of gas stoves
 9 increases the rates of respiratory illness in adults and children.

10 **C. Safe alternative designs that would reduce the danger are available.**

11 30. Further, the harms could have been avoided through safe, reasonable
 12 alternative designs. Alternative gas stove designs that “reduce harmful emissions,
 13 without sacrificing heat, have been available for decades.”²⁹ As one example, the “jet-
 14 powered infrared gas-range burner,” developed in the 1980s, “consumed about 40% less
 15 natural gas to reach cooking temperatures and emitted 40% less nitrogen oxides.”³⁰
 16 Another design proposed in the 1980s was the use of a flame insert, which cuts the NO_x
 17 emissions “more than 40 percent” when the burner is turned on high, and even more at
 18 low burner settings.³¹

19 31. Despite this, Defendant failed to use an alternative design to avoid these
 20 harms and reduce harmful pollutants from gas stoves.

21 **D. Defendant should have warned of the pollutant risk.**

22 32. While Defendant is aware of the harmful health effects of gas cooking,
 23 everyday consumers are unaware of these risks. Consumers shopping for a new oven,
 24

25 ²⁸ <https://www.scientificamerican.com/article/the-health-risks-of-gas-stoves-explained/>

26 ²⁹ <https://www.npr.org/2023/02/04/1149736969/gas-stove-makers-have-a-pollution-solution-theyre-just-not-using-it>

27 ³⁰ <https://www.npr.org/2023/02/04/1149736969/gas-stove-makers-have-a-pollution-solution-theyre-just-not-using-it>

28 ³¹ <https://www.sciencenews.org/archive/cleaner-cooking-gas>

1 range, or stove have very little information about the health risks of gas appliances.

2 33. Consumers remain unaware because nothing on Defendant's packaging,
3 instructions, or warning labels suggest that the gas stoves regularly emit pollutants that
4 are harmful to human health. Further, the labels and warnings do not mention any risk
5 of nitrogen oxides.

6 34. Defendant sold its Products for cooking inside the home, while omitting
7 any warning of the serious defect due to the harmful emissions. Defendant knew of the
8 defect, but actively concealed it. Defendant should have, but did not, warn consumers
9 of the fact that its Products emit harmful pollutants when used for cooking. Defendant
10 should have, but did not, warn consumers of the risk of nitrogen oxides. These warnings
11 could have been included on the packaging, stickers, or instruction manual for the
12 product. But Defendant did not include any such warning.

13 35. Defendant had a duty to warn of the defect. The defect was an
14 unreasonable safety hazard. Defendant could have avoided this risk by using available
15 design-arounds. In addition, the defect was central to the gas stove's function (i.e., its
16 safety for use cooking inside the home). Defendant had exclusive knowledge of the
17 defect (which is unknown to everyday consumers), and Defendant actively concealed the
18 defect from consumers by failing to disclose it. Defendant also made partial
19 representations that are misleading because other material facts were not disclosed. For
20 example, it warned of some risks of the Product (e.g., it included warnings about fire),
21 but failed to warn that the Product emits harmful pollutants like nitrogen oxide. This led
22 consumers to believe that there was no such risk.

23 36. Defendant's continued sale of the Products, without providing warnings
24 about the emissions of harmful pollutants, is not an accident. This is because Defendant
25 has known of the risk of harmful emissions for years, if not decades. And Defendant
26 has shown that it is able and willing to provide warnings about risks associated with the
27 Products—such as fire and tipping risks. So, Defendant's continued sale of its Products,
28 without warning, is the result of a decision committed, authorized, or ratified by

1 Defendant's executives or directors.

2 **E. Defendant overcharges millions of consumers.**

3 37. If Defendant disclosed the truth— that is, its Products emit harmful
4 pollutants, the price of its Products would fall dramatically.

5 38. For example, a recent study showed that consumer demand for gas stoves
6 falls as consumers become informed of the harms of gas stoves. Forty-six percent of
7 gas-stove owning adults were interested in replacing their gas stoves after being
8 informed of the study showing the link between gas stove pollution and childhood
9 asthma.³²

10 39. If consumers knew the truth, demand for Defendant's prices would drop,
11 and Defendant could not sell its Products at current prices.

12 40. In addition, the defective design of gas stoves reduces their value.
13 Consumers pay for a stove that is safe for home cooking, but receive a less valuable
14 stove—one with a defective design that carries significant (and undisclosed) air pollution
15 risks.

16 **F. Plaintiff was misled and harmed by Defendant.**

17 41. In or around September 2022, Plaintiff purchased a KitchenAid gas stove
18 from Lowe's while living in Woodland Hills, California. The stove had the model
19 number of KSGG700ESS.³³ Defendant provided the Products to retailers such as
20 Lowe's, with the intention that the ultimate purchasers of the Products would be
21 consumers like Plaintiff who use the Products at home. Defendant addresses the
22 consumer at home in representing that its ranges provide "all the tools *you* need to hone
23 *your* techniques and make chef-level meals at home."³⁴

26 ³² <https://morningconsult.com/2023/01/31/natural-gas-stove-bans-remain-divisive/>

27 ³³ <https://www.kitchenaid.com/major-appliances/ranges/slide-in-ranges/p.30-inch-5-burner-gas-slide-in-convection-range.ksgg700ess.html>

28 ³⁴ <https://www.kitchenaid.com/major-appliances/ranges.html>



42. In purchasing the item, Ms. Goldstein relied on the representations on the marketing materials and stickers on the stove disclosing risks. At Lowe's, she looked at stickers on the stove to learn the stove's brand, price, and whether it had features such as steam cleaning and a convection oven. The marketing materials, and stickers did not disclose or warn that the product emitted harmful pollutants, such as nitrogen oxides, or disclose the risks of these pollutants. Thus, at the time of purchase, Plaintiff was unaware that the product emitted harmful pollutants such as nitrogen oxide.

43. Plaintiff used the gas stove for regular cooking. She used the gas stove approximately twice a day, to cook for breakfast and dinner. On average she used the gas stove for about 5-10 minutes per day for breakfast, and 30-45 minutes per day for dinner. This exposed Plaintiff and members of her household to a health-harming concentrating of pollutants, especially nitrogen dioxide. Plaintiff has respiratory issues for which she has been prescribed two inhalers. Plaintiff's fiancé, who lives in her home, has asthma. Because of these conditions, they were particularly vulnerable to the

1 concentration of NO₂ in the home from gas stoves.

2 44. In addition, Plaintiff and members of her household were exposed to an
3 even higher concentration of indoor pollutants when Plaintiff used the stove with the
4 windows closed, when she used the stove without using a vent, and when she used the
5 stove for longer periods. Plaintiff routinely used the gas stove with the windows closed.
6 Plaintiff only used the stove with venting when she cooked something at a high heat and
7 it creates a lot of smoke, such as cooking meat. But she does not use it for other
8 common cooking tasks, such as boiling water, blanching vegetables, and cooking eggs
9 for breakfast. Twice a month, Plaintiff used the gas stove for longer periods to bake
10 cakes for a charity. On each occasion, she baked two cakes for about 35 minutes each.
11 Each of these uses exacerbates the concentration of NO₂ in her home.

12 45. Plaintiff did not discover the truth until she saw information online
13 regarding the health-harming effects of the Products, in or around May 2023.
14 Reasonable consumers do not conduct independent research on potential defects of
15 consumer products. Plaintiff did not regularly read sources that would have shown the
16 gas stoves' emissions defect earlier, such as epidemiology journals or World Health
17 Organization guidelines. Instead, it was only in May 2023, that Plaintiff discovered the
18 truth. Prior to this date, Plaintiff was unaware of the defect and these risks. Before this,
19 Plaintiff had no reason to search for information on a defect that she did not know
20 about.

21 46. Plaintiff purchased Defendant's Product based on Defendant's
22 representations that using the Product would not expose her to a significant air pollutant
23 risk. Plaintiff would not have purchased Defendant's Product had she known that it
24 emitted harmful pollutants like nitrogen oxide.

25 47. As a result, Plaintiff suffered injury in fact when she: (a) spent money to
26 purchase a Product she would not otherwise have purchased absent Defendant's
27 misconduct; (b) overpaid for the Product due to Defendant's misconduct; and (c) paid
28 for a defective product that, in truth, is worth less than she paid for it.

1 48. Defendant's conduct is ongoing and continuing, such that prospective
2 injunctive relief is necessary. Plaintiff likes Defendant's Products, and would purchase
3 Defendant's Products in the future if the Product was redesigned to avoid emitting
4 harmful pollutants. She faces an imminent risk of harm, however, because she cannot
5 rely on representations that the Product is safe for cooking inside the home or the
6 absence of any pollutant warning. Absent injunctive relief, Defendant may continue to
7 advertise, promote, and sell the Products while representing that it is safe, and without
8 warning the public about the health risks.

9 49. The who, what, when, where and how are as follows.

10 Who: Defendant Whirlpool Corporation.

11 What: Defendant made fraudulent omissions by failing to disclose that its
12 products emit harmful pollutants while cooking. In addition, Defendant made fraudulent
13 misrepresentations by: (a) selling its stoves at retail, which were a representation that the
14 products were of merchantable quality and were safe for their ordinary use in home
15 cooking; (b) marketing the Products to consumers for home use; and (c) making partial
16 representations that are misleading because it warned of some risks of the Product (e.g.,
17 it included extensive warnings about fire), but failed to warn that the Product emits
18 harmful pollutants like nitrogen oxide.

19 When: In or around September 2022, Plaintiff purchased a KitchenAid gas stove.

20 Where: Plaintiff purchased the stove from Lowe's while living in Woodland Hills,
21 California. The representations and omission were on the marketing materials,
22 instruction manual, installation guide, and stickers on the stove disclosing risks, which
23 did not disclose or warn that the product emitted harmful pollutants, such as nitrogen
24 oxides. The warnings could have been included on the packaging, stickers, or
25 instruction manual.

26 How: Defendant's representations and omissions led Plaintiff and other
27 reasonable consumers to believe that Defendant's stoves are safe for home cooking and
28 do not emit harmful levels of air pollutants. In fact, Defendant's gas stoves emit

1 pollutants, especially nitrogen dioxide, at unhealthy levels. Defendant knew about this
2 danger but did not warn of it.

3 **G. No adequate remedy at law.**

4 50. Plaintiff seeks damages and, in the alternative, restitution. Plaintiff is
5 permitted to seek equitable remedies in the alternative because she has no adequate
6 remedy at law.

7 51. A legal remedy is not adequate if it is not as certain as an equitable remedy.
8 To obtain a full refund as damages, Plaintiff must show that the Product she received
9 has essentially no market value. In contrast, Plaintiff can seek restitution without making
10 this showing. This is because Plaintiff purchased a Product that she would not otherwise
11 have purchased, but for Defendant's omissions. Obtaining a full refund at law is less
12 certain than obtaining a refund in equity.

13 52. In addition, the elements of Plaintiff's equitable claims are different and do
14 not require the same showings as Plaintiff's legal claims. For example, to obtain
15 damages under the CLRA, a plaintiff must show that they complied with the CLRA's
16 notice requirement for damages. No such requirements exist to obtain restitution.
17 Because a plaintiff must make this additional showing to obtain damages, rather than
18 restitution, the legal remedies are more uncertain.

19 53. Finally, the remedies at law available to Plaintiff are not equally prompt or
20 otherwise efficient. The need to schedule a jury trial may result in delay. And a jury trial
21 will take longer, and be more expensive, than a bench trial.

22 **V. Class Action Allegations.**

23 54. Plaintiff brings certain claims on behalf of the proposed class of:

- 24 • Nationwide Class: all persons who purchased Defendant's Products
- 25 while living in the United States during the applicable statute of
- 26 limitations (the "Nationwide Class");
- 27 • California Subclass: all persons who, while living in the state of
- 28 California, purchased Defendant's Products during the applicable

1 statute of limitations; and

- 2 • Consumer Protection Subclass: all persons who, while living in certain
- 3 identified states (the “Consumer Protection Subclass States”), purchased
- 4 Defendant’s Products during the applicable statute of limitations.

5 55. The Consumer Protection Subclass States are as follows: California,

6 Connecticut, Illinois, Maryland, Missouri, and New York.

7 56. The following people are excluded from the proposed Class and

8 Subclasses: (1) any Judge or Magistrate Judge presiding over this action and the members

9 of their family; (2) Defendant, Defendant’s subsidiaries, parents, successors,

10 predecessors, and any entity in which the Defendant or its parents have a controlling

11 interest and their current employees, officers, and directors; (3) persons who properly

12 execute and file a timely request for exclusion from the class; (4) persons whose claims

13 in this matter have been finally adjudicated on the merits or otherwise released; (5)

14 Plaintiff’s counsel and Defendant’s counsel, and their experts and consultants; and (6)

15 the legal representatives, successors, and assigns of any such excluded persons.

16 57. Certification of Plaintiff’s claims for class-wide treatment is appropriate

17 because Plaintiff can prove the elements of her claims on a class-wide basis using the

18 same evidence as would be used to prove those elements in individual actions alleging

19 the same claims.

20 ***Numerosity & Ascertainability.***

21 58. The proposed class contains members so numerous that separate joinder of

22 each member is impractical. There are tens or hundreds of thousands of class members.

23 The precise number of class members is unknown to Plaintiff at this time.

24 59. Members of the proposed class can be identified through public notice.

25 ***Predominance of Common Questions.***

26 60. There are questions of law and fact common to the proposed class.

27 Common questions of law and fact include, without limitation:

- 28 (1) Whether Defendant misrepresented and/or failed to disclose material facts

1 concerning the Products;

2 (2) Whether Defendant's conduct was unfair and/or deceptive;

3 (3) Whether Defendant breached an implied warranty;

4 (4) What damages are needed to compensate Plaintiff and the proposed class; and

5 (5) Whether an injunction is necessary to prevent Defendant from continuing to
6 deceptively market and sell the Products.

7 ***Typicality & Adequacy.***

8 61. Plaintiff's claims are typical of the other class members' claims. Like other
9 class members, Plaintiff purchased Defendant's Product.

10 62. The interests of the members of the proposed class and subclasses will be
11 adequately protected by Plaintiff and her counsel. Plaintiff's interests are aligned with,
12 and do not conflict with, the interests of the members of the proposed class or
13 subclasses that they seek to represent. Moreover, Plaintiff has retained experienced and
14 competent counsel to prosecute the class and subclasses' claims.

15 ***Superiority.***

16 63. The prosecution of separate actions by individual members of the
17 proposed class would create a risk of inconsistent or varying adjudication with respect to
18 individual members, which would establish incompatible standards for the parties
19 opposing the class. For example, individual adjudication would create a risk that the
20 same product is found unfit for its ordinary use for some proposed class members, but
21 not for others.

22 64. Common questions of law and fact predominate over any questions
23 affecting only individual members of the proposed class. These common legal and
24 factual questions arise from certain central issues which do not vary from class member
25 to class member, and which may be determined without reference to the individual
26 circumstances of any particular class member.

27 65. A class action is superior to all other available methods for the fair and
28 efficient adjudication of this litigation because individual litigation of each claim is

1 impractical. It would be unduly burdensome to have individual litigation of millions of
 2 individual claims in separate lawsuits, every one of which would present the issues
 3 presented in this lawsuit.

4 **VI. Claims.**

5 **Count I: Violation of California's Unfair Competition Law**

6 **(on behalf of Plaintiff and the California Subclass)**

7 66. Plaintiff incorporates by reference and re-alleges each and every allegation
 8 set forth above as though fully set forth herein.

9 67. Plaintiff brings this cause of action on behalf of herself and members of
 10 the California Subclass.

11 68. Defendant has violated California's Unfair Competition Law (UCL) by
 12 engaging in unlawful, fraudulent, and unfair conduct (i.e., violating each of the three
 13 prongs of the UCL).

14 ***The Unlawful Prong***

15 69. As alleged in detail above and below, Defendant engaged in unlawful
 16 conduct by violating the CLRA, FAL, and Song-Beverly Consumer Warranty Act, as
 17 incorporated here.

18 ***The Fraudulent Prong***

19 70. As alleged in detail above, Defendant's representations and omissions
 20 concerning the product's defect were misleading. Defendant's representations and
 21 omissions were likely to deceive, and did deceive, Plaintiff and reasonable consumers.

22 ***The Unfair Prong***

23 71. Defendant violated established public policy by violating the CLRA, the
 24 FAL, and the Song-Beverly Consumer Warranty Act, as alleged below and incorporated
 25 here. The unfairness of this practice is tethered to a legislatively declared policy (that of
 26 the CLRA, FAL, and the Song-Beverly Consumer Warranty Act).

27 72. Defendant's conduct caused substantial injury to Plaintiff and Subclass
 28 members. The harm to Plaintiff and the Subclass greatly outweighs the public utility of

1 Defendant's conduct (which is none). Defendant distributed household appliances that
2 emit harmful pollutants, when reasonable alternative designs exist. Defendant also
3 omitted any warning about these pollutants. These actions do not have public utility.
4 This injury was not outweighed by any countervailing benefits to consumers or
5 competition.

6 73. Plaintiff and the Subclass could not have reasonably avoided this injury. As
7 alleged above, Defendant's representations and omissions were deceptive to reasonable
8 consumers.

9 74. Defendant's conduct, as alleged above, was immoral, unethical, oppressive,
10 unscrupulous, and substantially injurious to consumers.

11 75. Defendant's conduct violated the public policy against misleading product
12 labels and defective products, which is tethered to the CLRA and FAL, as well as the
13 Song-Beverly Consumer Warranty Act.

14 * * *

15 76. For all prongs, Plaintiff saw and reasonably relied on Defendant's
16 misleading representations and omissions when purchasing the Product.

17 77. Defendant sold its Products specifically for cooking inside the home, while
18 omitting any warning of the serious safety defect regarding harmful emissions.
19 Defendant knew of the defect, but actively concealed it. Defendant should have, but did
20 not, warn consumers of the risk of harmful pollutants while cooking. This warning
21 could have been included on the packaging for the product, or on stickers on the
22 product itself. But Defendant did not include any such warning.

23 78. As alleged in detail above, Defendant had a duty to warn of this defect.

24 79. As alleged in detail above, Defendant's misleading representations and
25 omissions were material. The defect would have been important to the purchase of
26 Plaintiff and other reasonable consumers. Subclass-wide reliance can be inferred
27 because Defendant's misrepresentations were material, i.e., a reasonable consumer would
28 consider them important in deciding whether to buy Defendant's Products. Defendant's

1 misleading representations and omissions were a substantial factor in Plaintiff's purchase
2 decision and the purchase decisions of class members.

3 80. Plaintiff and Subclass members were injured as a direct and proximate
4 result of Defendant's conduct because: (a) they would not have purchased the Product if
5 they had known of the defect, (b) they overpaid for the product because the product is
6 sold at a price premium due to Defendant's misleading representations and omissions, or
7 (c) they received a product that was defective and thus less valuable than what they paid
8 for.

9 **Count II: Violation of California's False Advertising Law (FAL)**

10 **(on behalf of Plaintiff and the California Subclass)**

11 81. Plaintiff incorporates by reference and re-alleges each and every allegation
12 set forth above in Sections I-IV as though fully set forth herein.

13 82. Plaintiff brings this cause of action on behalf of herself and members of
14 the California Subclass.

15 83. As alleged more fully above, Defendant has falsely advertised its Products
16 by making misleading representations and omissions. Defendant sold its Products for
17 cooking inside the home, and omitted any warning that the Products emit harmful
18 pollutants. For example, it markets the KitchenAid Products for residential use by
19 consumers inside the house, while failing to warn that it emits harmful pollutants when
20 consumers cook with it. The representations and omissions are misleading because the
21 Products emit health-harming pollutants. Defendant knew of this defect, but failed to
22 include any warning about the defect. Plaintiff relied on these representations and
23 omissions.

24 84. As alleged more fully above, Defendant's representations and omissions
25 were likely to deceive, and did deceive, Plaintiff and reasonable consumers. Defendant
26 knew, or reasonably should have known, that its representations and omissions were
27 misleading.

28 85. As alleged in detail above, Defendant's misrepresentations and omissions

1 were material. Thus, subclass-wide reliance can be inferred.

2 86. As alleged in detail above, Defendant's representations and omissions were
3 a substantial factor and proximate cause in causing damages and losses to Plaintiff and
4 subclass members.

5 87. Plaintiff and subclass members were injured as a direct and proximate
6 result of Defendant's conduct because (a) they would not have purchased the Product if
7 they had known of the defect, (b) they overpaid for the product because the product is
8 sold at a price premium due to Defendant's misleading representations and omissions, or
9 (c) they received a product that was defective and thus less valuable than what they paid
10 for.

11 **Count III: Violation of California's Consumer Legal Remedies Act (CLRA)**

12 **(on behalf of Plaintiff and the California Subclass)**

13 88. Plaintiff incorporates by reference and re-alleges each and every allegation
14 set forth above in Sections I-IV as though fully set forth herein.

15 89. Plaintiff brings this cause of action on behalf of herself and members of
16 the California Subclass.

17 90. Plaintiff and the other members of the California Subclass are
18 "consumers," as the term is defined by California Civil Code § 1761(d).

19 91. Plaintiff, the other members of the California Subclass, and Defendant
20 have engaged in "transactions," as that term is defined by California Civil Code §
21 1761(e).

22 92. The conduct alleged in this Complaint constitutes unfair methods of
23 competition and unfair and deceptive acts and practices for the purpose of the CLRA,
24 and the conduct was undertaken by Defendant in transactions intended to result in, and
25 which did result in, the sale of goods to consumers.

26 93. As alleged more fully above, Defendant has violated the CLRA by
27 advertising its Products in a way that is misleading or is likely to deceive consumers.
28 Defendant failed to warn that its Products, which are sold for use in the home, emit

1 health-harming pollutants. Defendant has also violated the CLRA by failing to warn of a
2 material defect with the product.

3 94. As a result of engaging in such conduct, Defendant has violated California
4 Civil Code §§ 1770(a)(2), (a)(5), (a)(7), and (a)(9).

5 95. As alleged more fully above, Defendant's conduct was likely to deceive, and
6 did deceive, Plaintiff and reasonable consumers. Defendant knew that its product
7 emitted harmful pollutants. Defendant's failure to warn consumers that the Products
8 emit harmful pollutants was deceptive.

9 96. Plaintiff saw and reasonably relied on Defendant's misleading
10 representations and omissions when purchasing the Product.

11 97. As alleged in detail above, Defendant had a duty to warn of this defect.

12 98. As alleged in detail above, Defendant's misleading representations and
13 omissions were material. Thus, subclass-wide reliance can be inferred. Defendant's
14 misleading representations and omissions were a substantial factor in Plaintiff's purchase
15 decision and the purchase decisions of subclass members.

16 99. Plaintiff and subclass members were injured as a direct and proximate
17 result of Defendant's conduct because (a) they would not have purchased the Product if
18 they had known of the defect, (b) they overpaid for the product because the product is
19 sold at a price premium due to Defendant's misleading representations and omissions, or
20 (c) they received a product that was defective and thus less valuable than what they paid
21 for.

22 100. Accordingly, pursuant to California Civil Code § 1780(a)(2), Plaintiff, on
23 behalf of herself and all other members of the California Subclass, seeks injunctive relief.

24 101. CLRA § 1782 NOTICE. On June 9, 2023, Plaintiff mailed a notice letter
25 to Whirlpool Corporation at its Benton Harbor, Michigan headquarters. This letter
26 provided notice of Defendant's violation of the CLRA and demanded that Defendant
27 correct the unlawful, unfair, false and/or deceptive practices alleged here. If Defendant
28 does not fully correct the problem for Plaintiff and for each member of the class within

30 days of receipt, Plaintiff and the class will seek all monetary relief allowed under the CLRA.

Count IV: Breach of Implied Warranty

Pursuant to Song-Beverly Consumer Warranty Act

(on behalf of Plaintiff and the California Subclass)

102. Plaintiff incorporates by reference and re-alleges each and every allegation set forth above in Sections I-IV as though fully set forth herein.

103. Plaintiff brings this cause of action on behalf of herself and members of the California Subclass.

104. Plaintiff is a “buyer” within the meaning of Cal. Civ. Code §1791(b).

105. Defendant’s Products are “consumer goods” within the meaning of Cal. Civ. Code §1791(a). Defendant’s Products are for use inside of the house.

106. Defendant is the “manufacturer” of Defendant’s Products within the meaning of Cal. Civ. Code § 1791(j). Defendant is in the business of manufacturing or distributing Defendant’s Products.

107. As alleged in detail above, Defendant is aware that the consumers purchase its Products for the purpose of cooking in the home. Consumers, including the California Subclass, rely on the skill and judgment of Defendant as a supplier of home appliances when selecting products suitable for home use. Defendant knew that Plaintiff and class members would justifiably rely on Defendant’s particular skill and knowledge of home appliances in selecting or furnishing products suitable for home cooking. But the Products were not fit for the purpose.

108. Defendant impliedly warranted that Defendant’s Products were in merchantable condition and fit for the ordinary purpose for which the Products are used (cooking inside the home) under Cal. Civ. Code §§ 1791.1(a) & 1792.

109. As alleged in detail above, Defendant’s Products did not have the quality that a buyer would reasonably accept, and therefore were not merchantable.

110. As alleged in detail above, Defendant’s Products would not pass without

1 objection in the home appliances trade because they emit harmful pollutants, and fail to
2 warn of these risks.

3 111. As alleged in detail above, Defendant's Products are not adequately labeled
4 because they fail to disclose the risk of harmful pollutants.

5 112. Defendant breached the implied warranty of merchantability and fitness by
6 selling its Products containing defects. These defects have deprived Plaintiff and the
7 Subclass of the benefit of the bargain, and have caused the Products to depreciate in
8 value.

9 113. Plaintiff and subclass members were injured as a direct and proximate
10 result of Defendant's conduct because (a) they would not have purchased the Product if
11 they had known of the defect, (b) they overpaid for the product because the product is
12 sold at a price premium due to Defendant's misleading representations and omissions, or
13 (c) they received a product that was defective and thus less valuable than what they paid
14 for.

15 114. Plaintiff and Subclass members are entitled to damages and other legal and
16 equitable relief, costs, and attorneys' fees.

17 **Count V: Violations of State Consumer Protection Statutes**

18 **(on behalf of Plaintiff and the Consumer Protection Subclass)**

19 115. Plaintiff incorporates by reference and re-alleges each and every allegation
20 set forth above in Sections I-IV as though fully set forth herein.
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116. This count is brought on behalf of Plaintiff and the Consumer Protection Subclass for violations of the following state consumer protection statutes:

State	Statute
California	Cal. Bus. & Prof. Code § 17200, and the following; <i>Id.</i> §17500, and the following; Cal. Civ. Code §1750 and the following.
Connecticut	Conn. Gen Stat. Ann. § 42- 110, and the following.
Illinois	815 ILCS § 501/1, and the following.
Maryland	Md. Code Ann. Com. Law, § 13-301, and the following.
Missouri	Mo. Rev. Stat. § 407, and the following.
New York	N.Y. Gen. Bus. Law § 349, and the following.

117. Each of these consumer protection statutes prohibits unfair, unconscionable, and/or deceptive acts or practices in the course of trade or commerce or in connection with the sales of goods or services to consumers.

118. As alleged in detail above, Defendant's conduct, including the marketing and sale of its Products to consumers, violates each statute's prohibitions.

119. As further alleged above, Defendant's misrepresentations and omissions were a substantial factor in Plaintiff's purchase decision and the purchase decisions of Subclass members. Defendant's misrepresentations and omissions were misleading to a reasonable consumer, and Plaintiff and Subclass members reasonably relied on Defendant's misrepresentations.

120. Plaintiff and Subclass members were injured as a direct and proximate result of Defendant's conduct because (a) they would not have purchased the Defendant's Products if they had known the truth, (b) they overpaid for the Products because the Products are sold at a price premium due to the misrepresentation and omissions, or and/or (c) they received a product that was defective and thus less

1 valuable than what they paid for.

2 121. In this way, Plaintiff and the members of the proposed Subclass have
3 suffered an ascertainable loss, in an amount to be determined at trial.

4 **Count VI: Breach of Implied Warranties**

5 **(on behalf of Plaintiff and the Nationwide Class)**

6 122. Plaintiff incorporates by reference and re-alleges each and every allegation
7 set forth above in Sections I-IV as though fully set forth herein.

8 123. Plaintiff brings this count individually and for the Nationwide Class. In the
9 alternative, Plaintiff brings this cause of action on behalf of herself and the California
10 Subclass.

11 ***Implied Warranty of Merchantability***

12 124. The Uniform Commercial Code § 2-314 states that “a warranty that []
13 goods shall be merchantable is implied in a contract for their sale if the seller is a
14 merchant with respect to goods of that kind.” “Merchantable” goods must be “fit for
15 the ordinary purposes for which the goods are used.”

16 125. Defendant is and was, at all relevant times, a merchant with respect to
17 home appliances, and with respect to residential Products in particular. Defendant’s
18 Products each constitutes a “good” under the UCC.

19 126. Plaintiff and class members purchased Defendant’s Products.

20 127. As the manufacturer of residential gas stoves, Defendant impliedly
21 warranted to Plaintiff and the class that the products were of merchantable quality and
22 were safe for their ordinary use in home cooking. In fact, as described in detail above,
23 the products, when sold and at all times after, were not in merchantable condition and
24 were not fit for the ordinary purpose for which they are used. Specifically, the Products
25 are inherently flawed given a defect in design making them emit health-harming
26 pollutants when used to cook inside the home. The defective design makes them unfit
27 for ordinary purposes even when used correctly. In addition, Defendant’s Products are
28 not adequately labeled because they fail to disclose the risk of harmful pollutants.

1 128. Thus, Defendant breached the implied warranty of merchantability in
2 connection with the sale and distribution of the Products.

3 129. Plaintiff and the class were foreseeable third-party beneficiaries of
4 Defendant's sale of the Products. Defendant sells the Products to retailers for
5 distribution and sale to consumers such as Plaintiff and class members.

6 130. Defendant's breach directly caused Plaintiff and class members harm.
7 Plaintiff and Subclass members were injured as a direct and proximate result of
8 Defendant's conduct because (a) they would not have purchased the Defendant's
9 Products if they had known the truth, (b) they overpaid for the Products because the
10 Products are sold at a price premium due to the misrepresentation and omissions, or
11 and/or (c) they received a product that was defective and thus less valuable than what
12 they paid for.

13 *Implied Warranty of Fitness*

14 131. The Uniform Commercial Code § 2-315 states that where a seller "has
15 reason to know any particular purpose for which the goods are required and that the
16 buyer is relying on the seller's skill or judgment to select or furnish suitable goods, there
17 is unless excluded or modified under the next section an implied warranty that the goods
18 shall be fit for such purpose."

19 132. Plaintiff and class members purchased Defendant's Products for the
20 particular purpose of cooking inside the home.

21 133. As explained in detail above, Defendant knew, or had reason to know, that
22 Plaintiff and class members were purchasing the Products for the particular purpose of
23 cooking inside the home.

24 134. Defendant markets itself as a knowledgeable and effective developer and
25 purveyor of home appliances, such as gas stoves.

26 135. As explained more fully above, Defendant knew, or had reason to know,
27 that Plaintiff and class members would justifiably rely on Defendant's particular skill and
28 knowledge of home appliances in selecting or furnishing products suitable for home use.

1 136. Plaintiff and class members did justifiably rely on Defendant's judgment
2 and skill.

3 137. Due to the defect in the Products, the Products are not suitable for their
4 intended purpose.

5 138. As a result of the breach, Plaintiff and the class suffered economic harm
6 and damage. Plaintiff and Subclass members were injured as a direct and proximate
7 result of Defendant's conduct because (a) they would not have purchased the
8 Defendant's Products if they had known the truth, (b) they overpaid for the Products
9 because the Products are sold at a price premium due to the misrepresentation and
10 omissions, or and/or (c) they received a product that was defective and thus less
11 valuable than what they paid for.

12 **Count VII: Fraudulent Omission**

13 **(on behalf of Plaintiff and the Nationwide Class)**

14 139. Plaintiff incorporates by reference each preceding and succeeding
15 paragraph as though fully set forth herein.

16 140. Plaintiff brings this count individually and for the Nationwide Class. In the
17 alternative, Plaintiff brings this cause of action on behalf of herself and the California
18 Subclass.

19 141. As alleged in detail above, Defendant made materially misleading omissions
20 concerning the safety of its Products. Defendant concealed information about the
21 harmful pollutants emitted by its Products.

22 142. In deciding to purchase consumable products from Defendant, Plaintiff
23 and the class reasonably relied on Defendant's omissions to form the mistaken belief
24 that the Products did not pose a significant pollutant risk.

25 143. As alleged in detail above, Defendant's fraudulent conduct was knowing
26 and intentional. The omissions made by Defendant were intended to induce and actually
27 induced Plaintiff and class members to purchase the Products. Plaintiff would not have
28 purchased the products had she known of the defect. Class-wide reliance can be

1 inferred because Defendant's omissions were material, i.e., a reasonable consumer would
2 consider them important to their purchase decision.

3 144. As alleged in detail above, Defendant had a duty to disclose the defect.

4 145. Plaintiff and class members were injured as a direct and proximate result of
5 Defendant's fraudulent omissions because (a) they would not have purchased the
6 product if they had known the truth; (b) they overpaid for the product because it is sold
7 at a price premium due to Defendant's misleading representations and omissions, or (c)
8 they received a product that was defective and thus less valuable than what they paid for.

9 146. Defendant's acts were done maliciously, oppressively, deliberately, with
10 intent to defraud, and in reckless disregard of Plaintiff's rights and well-being to enrich
11 Defendant. Defendant's conduct warrants an assessment of punitive damages in an
12 amount sufficient to deter such conduct in the future, which amount is to be determined
13 according to proof.

14 **Count VIII: Unjust Enrichment / Quasi-contract**
15 **(on behalf of Plaintiff and the Nationwide Class)**

16 147. Plaintiff incorporates by reference each preceding and succeeding
17 paragraph as though fully set forth herein.

18 148. Plaintiff brings this count individually and for the Nationwide Class. In the
19 alternative, Plaintiff brings this cause of action on behalf of herself and the California
20 Subclass.

21 149. Plaintiff and class members conferred a tangible and material economic
22 benefit upon Defendant by purchasing the Products.

23 150. In exchange for the purchase price, Defendant provided a defective
24 product, without a reasonable warning. Defendant knew and appreciated the benefit they
25 incurred from consumers purchasing Products.

26 151. Thus, Defendant is aware of, and has retained, the unjust benefit conferred
27 upon them by Plaintiff and the class members.

28 152. Defendant received a direct and unjust benefit, at Plaintiff and the class's

1 expense.

2 153. Plaintiff and the class seek restitution.

3 **VII. Jury Demand.**

4 154. Plaintiff demands a jury trial on all issues so triable.

5 **VIII. Prayer for Relief.**

6 155. Plaintiff seeks the following relief individually and for the proposed class
7 and subclasses:

- 8 • An order certifying the asserted claims, or issues raised, as a class action;
- 9 • An order appointing Plaintiff as representative for the Nationwide Class
10 and each Subclass, and appointing their counsel as lead counsel for the
11 classes;
- 12 • A judgment in favor of Plaintiff and the proposed classes;
- 13 • An order requiring Defendant to stop selling its defective, unsafe Products
14 without warning of the defect;
- 15 • Damages, treble damages, statutory damages, and punitive damages where
16 applicable;
- 17 • Restitution;
- 18 • Disgorgement, and other just relief;
- 19 • An order awarding Plaintiff and all other class members damages in an
20 amount to be determined at trial for the wrongful acts of Defendant;
- 21 • Pre- and post-judgment interest on all amounts awarded;
- 22 • Injunctive relief as pleaded or as the Court may deem proper;
- 23 • Reasonable attorneys' fees and costs, as allowed by law;
- 24 • Punitive damages; and
- 25 • Any additional relief that the Court deems reasonable and just.
- 26
- 27
- 28

1 Dated: June 16, 2023

Respectfully submitted,

2 By: /s/ Christin Cho

3
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